Secrt. II-27—100,000—31-5-48.

(1948) Department.

M/s SERIES.

G.O. No. 126

Dated 5-2-48

[Despatch Abstract.]

damental Rules - Rent to be recovered from a Government servant who suspended but subsequently reinstated - Interpretation of Fundamental e 46-C - Papers recorded.

GOVERNMENT OF MADRAS.
Abstract.

Fundamental Rules - Rent to be recovered from a Government Servant who is suspended but subsequently reinstated - Interpretation of Fundamental Rule 45-C - Papers recorded.

FINANCE DEPARTMENT

G.O. Ms. No. 126. Dated the 5th February 1948.

Read:-

Letter from the Accountant-General, Madras, No. T.M. 1019/47-48/1674 dated 27.1.1948.

Order:-

Recorded.

(By Order of His Excellency the Governor).

x x x

To
The Accountant-General, Madras.
The Departments of Secretariat.
The Heads of Departments. Service
The Secretary, Madras Public/Commission, Madras.

...

Copy of letter No. T.M. 10.19/47/48/1674 dated 27th January 1948 from the Accountant-General, Madras to the Government of Madras, Finance Department.

Sub:- Rent to be recovered from a Government servant who is suspended but subsequently reinstated - Interpretation of Fundamental Rule 45-C.

I have the honour to forward herewith a copy of Government of India, Ministry of Finance, letter No. D. 4120/EG1/47 dated the 6th November 1947 on the subject indicated above, with copies of its enclosures, for information and to state that the same interpretation will be followed in audit in the case of Madras Government Servants also.

...

Copy of letter No. D.4120/E.G.1/47 dated the 6th November 1947 from the Government of India, Ministry of Finance to the Government of Bombay, Finance Department, Bombay Castle, Bombay

Sub:- Fundamental Rule 45-C - Interpretation of.

I am directed to refer to the correspondence resting with this Ministry's letter No. D.3684/EGI/47 dated the 17th October 1947, on the subject mentioned above, and to say that the Government of India have not issued any orders subsequent to their resolution No. D.5410.Ex.II. dated the 20th December 1933 governing the calculation of emoluments under Fundamental Rule 45-C for the purposes of recovery of rent from a Government servant, under suspension, who is subsequently reinstated.

2. The Government of India have carefully considered the particular type of cases mentioned in your letter

No. P.W.D. 7853/36, dated the 24th July 1947 and consider that in the matter of calculation of emoluments under Fundamental Rule 45-C for the purposes of recovery of rent, a suspended Government servant who is subsequently reinstated and whose period of suspension is treated as leave (either on average pay or on half average pay) should not be treated differently from a Government servant who goes on leave in the usual course. Cases of Government servant of the type under consideration should accordingly be dealt with under Note 2 below F.R. 45-C and not under Clause (vi) under that rule.

...

Copy of letter No. P.W.D. 7858/36 dated the 24th July 1947 from the Secretary to the Government of Bombay to the Government of India, Finance Department.

Sub:- Fundamental Rule No. 45-C - Interpretation of.

I am directed to invite your attention to the Government of India, Finance Department Resolutuion No. D. 5410/Ex.II. dated the 20th December 1933 on the subject noted above and to enquire whether any ruling has been given to cover the circumstances stated below.

2. Rent is calculated on 'emoluments' and 'emoluments' for this specific purpose are defined in Fundamental Rule 45-C. ibid. Sub-clause(vi) of this Fundamental Rule deals with the emoluments of a suspended person on leave Government servant and Note 2 deals with the emoluments of a person on leave. Now if and when a suspended person is reinstated the period of suspension must, for technical reasons, be treated as either duty or leave, though leave as such cannot be granted to a person under suspension. Should a suspended Government servant who has been reinstated and whose suspension has been treated as leave on half average pay, as happended in a recent case in this Province, be treated in the present context as suspended person under clause (vi) of Fundamental Rule 45-C, or a person on leave under Note 2 below that rule? It seems only reasonable to maintain that a distinction exists between the case of a person under suspension whose period of suspension is converted retrospectively for technical reasons into leave and the case of a person who in the normal course applies for and is granted leave. On this assumption, the case in view should in the opinion of this Government, be treated as falling under Clause (vi) of Fundamental Rule 45-C and not under Note 2 below that rule. I should be grateful if you would kindly inform me how the Government of India interpret the rule.

...

/True copy/

Superintendent,
Madras Record Office.

k.y.s. 27.6.

27/7.